

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHN-PIERRE BANEY,
Plaintiff,

v.

ERIC H. HOLDER, JR.,
U.S. Attorney General,
Defendant.

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3:11-CV-2922-D

ORDER

After making an independent review of the pleadings, files, and records in this case, including the May 7, 2012 the findings, conclusions, and recommendation of the magistrate judge, and plaintiff's May 21, 2012 objections (styled as a "motion to reconsider"), the court concludes that the findings, conclusions, and recommendation are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.


The court dismisses without prejudice plaintiff's claims under the Whistleblower Protection Act and USERRA for lack of subject matter jurisdiction, and it dismisses with prejudice as frivolous all remaining claims.

The court certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings, conclusions, and recommendation, the court finds

that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

SO ORDERED.

August 3, 2012.


SIDNEY A. FITZWATER
CHIEF JUDGE